



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FWP/169388

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 10, 2015, under Wis. Admin. Code § HA 3.03(4) (\*This subprogram no longer exists.), to review a decision by the Sheboygan County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on November 10, 2015, at Sheboygan, Wisconsin.

The issue for determination is whether the agency properly ended the Petitioner's FS benefits effective October 1, 2015.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Kris Schmidt

Sheboygan County Department of Human Services  
3620 Wilgus Ave  
Sheboygan, WI 53081

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.
2. On May 19, 2015, the Petitioner completed a FS renewal. Petitioner was referred to the FSET program. Petitioner reported during her renewal that she was under the care of a physician and was only able to stand for 10 minutes.

3. On May 20, 2015, the agency issued a Proof Needed For FoodShare notice to the Petitioner informing her that if she wants to get credit for a work exemption from the FSET program, she must provide a statement or note from a health care provider stating that she is unable to work and explaining the medical condition that prevents her from working. The due date for the information was May 29, 2015.
4. On May 21, 2015, a notice of appointment was issued to the Petitioner informing her of an appointment on May 27, 2015. The Petitioner did not appear for her appointment. Additional appointment notices were issued to the Petitioner on June 1, 2015, June 9, 2015, June 11, 2015, June 19, 2015, June 26, 2015, July 1, 2015, July 9, 2015, July 20, 2015, July 24, 2015, August 6, 2015, August 17, 2015, August 25, 2015, September 3, 2015 and September 14, 2015. Petitioner did not appear or call for any of these appointments.
5. On June 8, 2015, the agency received a note from Dr. [REDACTED] regarding the Petitioner: "Patient [MR] has a diagnosis of alcoholic neuropathy.
6. On September 18, 2015, the agency issued a Notice of Decision to the Petitioner informing her that her FS benefits would end effective October 1, 2015 due to using 3 months of time-limited benefits without meeting a work requirement.
7. On September 22, 2015, Petitioner appeared for an appointment. Petitioner was advised at that time that she would not be able to meet her work requirement for the month of September.
8. On October 10, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **DISCUSSION**

Pursuant to a provision of Wisconsin's 2007-2009 biennial budget, Wisconsin has operated a voluntary FoodShare Employment and Training (FSET) program since 2008. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) limits the receipt of FS benefits to three full months in a 36-month time period for Able-Bodied Adults without Dependents (ABAWDs) who do not meet the work requirement or meet an exemption from the work requirement. As part of Wisconsin's 2014-15 biennial budget, 2013 Wisconsin Act 20 created Wis. Stat. §49.79(10), which required FS eligibility and work requirements for ABAWDs to be implemented in Wisconsin beginning in 2014, consistent with federal regulations 7 CFR §273.7 and 7 CFR §273.24.

On June 11, 2014 the Department of Health Services (DHS) issued Operations Memo #14-25 which outlined Wisconsin's policy and instruction for applying Time-Limited FoodShare Benefits (TLBs) to ABAWDs. Operations Memo #14-25, available online at <https://www.dhs.wisconsin.gov/dhcaa/memos/14-25amendedv3.pdf>. As explained in that Memo, effective July 1, 2014, FS applicants and members residing in Kenosha, Racine, and Walworth counties were subject to the new eligibility rules which determine if a person is an ABAWD subject to time-limited FS benefits. Id. Thus, when petitioner completed her renewal in May, 2015 for FS, she was subject to these rules.

A FoodShare recipient may be exempt from participating in the FSET program if he or she is an ABAWD who is "determined unfit for employment, which includes someone who is: receiving temporary or permanent disability benefits from the government or a private source; mentally or physically unable to work, as determined by the IM agency; verified as unable to work by a statement from a health care professional or a social worker." FSET Handbook, § 6.2.2.

In this case, the agency determined that the Petitioner failed to provide verification that she meets the criteria for a work exemption. The physician's note that was submitted by the Petitioner to the agency states that she has a medical condition. It does not, however, verify that she is unable to work as a result of the condition. Therefore, I concur with the agency's determination that she did not meet an exemption.

The Petitioner also did not meet any work requirements during the months of July, August and September, 2015. Therefore, she used 3 months of time-limited benefits without meeting a work requirement or demonstrating that she meets exemption criteria. The agency properly terminated the Petitioner's benefits effective October 1, 2015.

### **CONCLUSIONS OF LAW**

The agency properly terminated the Petitioner's FS benefits effective October 1, 2015.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 1st day of December, 2015

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on December 1, 2015.

Sheboygan County Department of Human Services  
Division of Health Care Access and Accountability